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Attorneys for Defendant  
Louisville Ladder Inc.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CESAR U. MORENO  
CASTELLANOS, a/k/a CESAR  
MORENO, an Individual,

Plaintiff,

vs.

LOUISVILLE LADDER INC.,  
and DOES 1 to 25, Inclusive,

Defendants.

**CASE No. C 08-02009 BZ**

Honorable Maxine M. Chesney

**Defendant's Response to OSC re  
Remand**

COMPLAINT FILED: March 21, 2008  
Trial Date: None

**To the Honorable Maxine M. Chesney:**

Defendant Louisville Ladder, Inc. ("Defendant") submits the following response the Court's June 26, 2008 Order To Show Cause why this action should not be remanded to the California Superior Court for the County of Napa.

**RESPONSE TO OSC re REMAND**

On April 17, 2008, Defendant filed a timely Notice of Removal under 28 U.S.C §1332(a) based on the diversity of citizenship of the parties. Defendant alleged that the amount in controversy exceeds \$75,000 based upon the Plaintiff's complaint in which he claimed damages for wage loss, hospital and medical expenses, general damages, loss of earning capacity, emotional distress, pain and

1 suffering, and permanent disability, and a description of the Plaintiff's injuries and  
2 damages by Plaintiff's counsel.

3 Plaintiff has since confirmed that his alleged damages exceed the amount of  
4 \$75,000 in his Voluntary Disclosure Statement Pursuant to FRCP, Rule 26(a).  
5 [Declaration of Randolph T. Moore, §3, Exhibit 1.] According to Plaintiff's  
6 Disclosure Statement, he fractured and severely twisted his thoracic spine at the T-  
7 11 and T-12 levels and is now disabled. Plaintiff is unable to work again in his  
8 prior occupation in the construction industry. Plaintiff has incurred \$36,039 in past  
9 medical expenses and \$45,750 in past wage losses. In this action, Plaintiff claims  
10 that he will sustain an economic loss of \$2,012,189 and a non-economic loss of  
11 \$2,235,625. Plaintiff seeks \$4.2 million in damages against Defendant. [*Id.*]

12 Since Plaintiff's stated claims exceed the amount in controversy requirement  
13 under 28 U.S.C §1332(a), Defendant respectfully submits that the Court should not  
14 remand this action to the Superior Court and asks that the Court withdraw its Order  
15 to Show Cause.

16  
17 Dated: July 3, 2008

SNELL & WILMER L.L.P.

18  
19 By: 

20 Randolph T. Moore  
21 Attorneys for Defendant Louisville Ladder  
22 Inc.  
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**Cesar U. Moreno Castellanos v. Louisville Ladder, Inc.**

**USDC – Northern Division**

**Case No. C08-02009 BZ**

**PROOF OF SERVICE**

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 600 Anton Boulevard, Suite 1400, Costa Mesa, California 92626.

On July 3, 2008, I served, in the manner indicated below, the foregoing document described as:

**DEFENDANT'S RESPONSE TO OSC RE REMAND** on the interested parties in this action:

**Thomas J. Gundlach, Esq.**  
**700 Larkspur Landing Circle,**  
**Suite 175**  
**Larkspur, CA 94939**

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☒ BY E-FILING (USDC Central): I caused such document to be sent electronically to the court; pursuant to General Order No. 08-02, electronic filing constitutes service upon the parties who have consented to electronic service.

☒ FEDERAL: I declare that I am employed in the office of a member of the bar of this Court, at whose direction the service was made.

EXECUTED on July 3, 2008, at Costa Mesa, California.

//s// Sandi Martinez  
Sandi Martinez